

IN THE CLAIMS

Please amend the claims as follows:

Claim 1 (Currently Amended): A mobile communication system comprising:

a determination unit configured to ~~determine as to~~ designate layers of data ~~to be transmitted by~~ for transmission to respective ones of base stations ~~to mobile stations for mobile stations of~~ respective radio areas, the designation being based on area resource information concerning radio resources for the respective radio areas covered by the base stations so that the layers of data are selectively provided to the respective radio area in correspondence with available radio resources; and

a radio transmitter configured to transmit the data to the mobile stations according to a ~~determination~~ the designation of the determination unit.

Claim 2 (Currently Amended): A radio network controller comprising:

a determination unit configured to ~~determine as to~~ designate layers of data ~~to be transmitted by~~ for transmission to respective ones of base stations ~~to mobile stations for mobile stations of~~ respective radio areas, the designation being based on area resource information concerning radio resources for the respective radio areas covered by the base stations so that the layers of data are selectively provided to the respective radio area in correspondence with available radio resources; and

a data transmitter configured to transmit the data to the base stations according to a ~~determination~~ the designation of the determination unit.

Claim 3 (Original): The radio network controller of claim 2, wherein

the determination unit determines the layers from among the data being layered, and

the data transmitter transmits the data of the layers determined by the determination unit.

Claim 4 (Original): The radio network controller of claim 2, wherein the determination unit determines layering methods for layering the data, further comprising:

a layered data converter configured to layer the data for the respective radio areas using the layering methods determined by the determination unit, wherein the data transmitter transmits the data layered by the converter.

Claim 5 (Original): The radio network controller of claim 2, further comprising: a resource information receiver configured to receive the area resource information from the base stations, the determination unit determines based on the area resource information received by the resource information receiver.

Claim 6 (Currently Amended): A base station comprising: a determination unit configured to ~~determine as to~~ designate layers of data ~~to be transmitted for transmission to respective ones of to mobile stations~~ for mobile stations of respective radio areas, the designation being based on area resource information concerning radio resources for the respective radio areas covered by the base station so that the layers of data are selectively provided to the respective radio area in correspondence with available radio resources; and

a radio transmitter configured to transmit the data to the mobile stations according to a ~~determination~~ the designation of the determination unit.

Claim 7 (Original): The base station of claim 6, wherein  
the determination unit determines the layers from among the data being layered, and  
the radio transmitter transmits the data of the layers determined by the determination  
unit.

Claim 8 (Original): The base station of claim 6, wherein  
the determination unit determines layering methods for layering the data, further  
comprising:

a layered data converter configured to layer the data for the respective radio areas  
using the layering methods determined by the determination unit, wherein  
the radio transmitter transmits the data layered by the converter.

Claim 9 (Original): The base station of claim 6, further comprising:  
a resource information collection unit configured to collect the area resource  
information, wherein  
the determination unit determines based on the area resource information collected by  
the resource information collection unit.

Claim 10 (Currently Amended): A base station comprising:  
a notification unit configured to notify a radio network controller of area resource  
information concerning radio resources for respective radio areas covered by the base station;

a data receiver configured to receive data being layered for the respective radio areas transmitted from the radio network controller based on the area resource information notified by the notification unit so that the layered data is selectively provided by layer to the respective radio area in correspondence with available radio resources; and

a radio transmitter configured to transmit the data received by the data receiver to mobile stations for the respective radio areas.

Claim 11 (Original): The base station of claim 10, further comprising:

a resource information collection unit configured to collect the area resource information, wherein

the notification unit notifies of the area resource information collected by the resource information collection unit.

Claim 12 (Currently Amended): A communication method comprising:

determining as to layers of data to be transmitted by base stations to mobile stations for respective radio areas, based on area resource information concerning radio resources for the respective radio areas covered by the base stations so that the layered data is selectively provided by layer to the respective radio area in correspondence with available radio resources; and

transmitting the data to the mobile stations according to a determination.